INFORMATION LETTER

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Canners' Problems Laid Before House Agriculture Committee

Conferences Have Begun with Officials of Commodity Credit Corporation and Office of Price Administration

Hearings before the House Committee on Agriculture March 3 and 4, at which canners presented testimony attributing to the Office of Price Administration chief responsibility for holding up canners' plans for maximum production in 1943, brought about a conference on Thursday afternoon between industry representatives and J. B. Hutson, President of the Commodity Credit Corporation and Associate Director of the Food Production Administration of the Department of Agriculture, and Dr. J. K. Galbraith, Deputy Administrator of the Office of Price Administration in charge of prices.

The conference, which was suggested by Mr. Hutson, entered into a preliminary discussion of bases upon which a price and subsidy program satisfactory alike to the government agencies and the industry might be worked out. Following this discussion representatives of the industry were asked to give further consideration to the subject and meet again with Mr. Hutson and Dr. Galbraith on March 6.

Among questions at issue are the practicability of a subsidy through the Commodity Credit Corporation to either grower or canner, the amount of such subsidy, the part of the production to which it would be applicable, and how administered; the regional dollars and cents price plan proposed by the OPA, its adequacy, price factors it will include, and its relation to support prices by the Department of Agriculture; and grade labeling.

Two sessions were held by the House Agriculture Committee—on Wednesday and Thursday mornings—at which industry representatives brought out that planting time for some crops is at hand, others must soon go into the ground, but canners still lack the information on price controls and regulations which was promised as long ago as last December. Early last Fall the industry pointed out the necessity of early and definite action, and developments since that time have been a succession of promises, indecision, delays, and failure on the part of the Office of Price Administration to consult with or be aided by those who have a practical working knowledge of the problems involved.

"The canning industry," said E. N. Richmond of San Jose, California, in his opening statement to the committee, "finds itself confused, hampered, and bewildered. Canners feel as though their rights of serving their country in production at this time are being destroyed through arbitrary, unsound, unworkable and delayed plans of OPA, and further, by the injection of the matter of subsidies as between the Office of Price Administration and the Department of Agriculture into the affairs of the canning industry."

"The canning industry," Mr. Richmond stated, "knows its responsibility for production and does assume that responsibility. It can not fulfill that responsibility, satisfactorily to itself, to Army, Navy, Lend-lease, and the civilian population, however, if it is going to have barriers placed in the way of sound functioning."

Mr. Richmond, and Mr. H. L. Cannon of Bridgeville, Del., who acted as chair-

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New Format Established for INFORMATION LETTER

To conserve paper and reduce postage expense, the Association has changed the typography of the INFORMATION LETTER. A different and slightly smaller type face is used. The over-all page width remains the same but the material is set in three columns instead of two. Reduction in the size of type face is offset by lessening the length of the line, thus maintaining legibility. The effect of the change is to increase by 15 per cent the amount of material that can be used on a page. Accordingly, it will be necessary less frequently to increase the size of the LETTER beyond the point requiring payment of extra postage.

The change in typography is made to meet the present situation. When normal conditions return, the wishes of the Association members will determine whether the new format will be continued.

RATION ORDER AMENDED

Buyer-To-Canner Point Methods Cited; Exempt Foods Are Listed

Amendments 2 and 3 to Ration Order 13 have been issued by the Office of Price Administration, and became effective March 1. On the same date, the Department of Agriculture revoked FDO No. 24 (formerly WPB Order M-237), since under rationing regulations, retailers and wholesalers will receive their supplies of canned foods under the point system, making unnecessary any additional restrictions on trade movements. OPA has authorized its district offices to issue wholesalers a certificate for points to enable them to take in stocks, during March, up to the 25 per cent provision first established by M-237.

The amendments to Rationing Order 13 cover methods of passing points between buyer and canner, and listing foods covered and exempt from the order.

Amendment No. 2 provides the method by which buyers are to give up points to canners in case of a sale of rationed processed foods. In addition to the method prescribed in the original order, the amendment allows the canner to appoint a representative to obtain the points for him at the time of the transfer. It also provides that points may be given up later provided they are given up by the buyer within

72 hours after delivery of the shipment. Text of those portions of the amendment covering the above provisions follows:

5. Section 9.5 (c) is amended to read as follows:

(c) When points must be given up.

The transferor must get the points from the transferee, and the transferee must give them up, at or before the time when the transfer is made. However, if the transfer is made through shipment by railroad or any other public carrier, the transferor may arrange to have the carrier get the points for him from the transferee, at the time of actual delivery, or to have the points obtained for him by anyone in exchange for the bill of lading or other document entitling its holder to take possession of the processed foods. Where transfer is made by delivery at a time when the transferor or his authorized agent or the transferee or his authorized agent are not present, the points may be given up later, but not more than 72 hours after the delivery.

Text of other governing sections of Amendment 2 to Ration Order 13 follows.

6. Section 9.5 (e) (4) is amended to read as follows:

(4) General.

Points may be transferred freely between establishments of the same type operated by the same persons, and points of one of those establishments may be used to get processed foods for another of them. However, this rule does not apply to the movement of points between institutional user establishments, which is covered by the provisions of General Ration Order 5.

* * *

8. Section 10.9 is amended to read as follows:

Sec. 10.9 Processed foods may be transferred to prospective buyers for sampling, point-free, and may be used for sampling and demonstration.

(a) A processor may deliver processed foods to prospective buyers (other than consumers) for sampling, without getting points. However, he may not deliver in this way more than one-fortieth of one per cent of the total amount of processed foods produced or imported by him.

(b) A retailer or "wholesaler" who acquires processed foods from a processor may sample some of them in order to check grades and quality, and may use some of them to demonstrate them to prospective purchasers other than consumers. However, he may not use for this purpose more than one-tenth of one per cent of the total amount of processed foods acquired by him. A wholesaler shall attach to his monthly report to the Washington Office on OPA Form R-1310 a statement accounting for the amount of processed foods used by him for sampling or demonstration to prospective purchasers.

9. Section 10.12 is added, to read as follows:

Sec. 10.12 Processors may transfer point free to allow for spoilage.

(a) In any case in which a processor makes a money allowance to his transferee to cover spoilage of the processed foods transferred, he may, in order to allow for spoilage, transfer to his transferee, without receiving points, processed foods in an amount not exceeding the same percentage of the total amount transferred that the money allowance made is of the total price paid. However, such transfer may not, in any event, exceed one-fourth of one per cent of the total amount transferred.

(b) If the actual spoilage of processed foods transferred by a processor exceeds one-fourth of one per cent, the transferee may return the spoiled foods to the processor and receive points for the difference between the amount spoiled and any allowance already made. However, if he does not return the spoiled processed foods, he may receive points for that difference only if and to the extent that the processor makes a money adjustment for the spoiled processed foods.

(c) The processor must keep a record of the name and address of each person to whom such point-free transfers and point returns are made, the dates thereof, and the amounts of such transfers and returns.

10. Section 14.4 (b) is amended to read as follows:

(b) Spoiled processed foods.

No adjustment, other than that provided in section 10.12, is granted for processed foods which spoiled. Spoiled processed foods not covered in section 10.12 may be replaced only by exchanging them for other processed foods of equal point value. However, a "processor" must account, in his monthly report to the Washington office, for processed foods which spoiled in his hands, or which he took back in an exchange.

* * *

Article XXII: Exports

Sec. 22.1 Processed foods may be exported point-free.

(a) Any "person" who exports "processed foods" to any foreign country or to any territory or possession of the United States (other than the District of Columbia) need not receive points for the export.

Sec. 22.2 Points may be obtained to acquire processed foods for export.

(a) A person who needs points with which to "acquire" processed foods for export to any foreign country or to any territory or possession of the United States (other than the District of Columbia), may apply, on OPA Form R-315, to the district office (or, where there is none, to the State office) for the place where his principal business office is located. * * *

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15. A new Article XXIII, containing sections 23.1, 23.2, 23.3, 23.4, 23.5, 23.6, 23.7 and 23.8, is added to read as follows:

Sec. 23.1 Exempt agencies may acquire processed foods.

(a) Nothing in this order restricts the amounts of "processed foods" which may be "acquired" by the Army, Navy, Marine Corps or Coast Guard of the United States or by the War Shipping Administration, Office of Lend-lease Administration or Food Distribution Administration. (These agencies are referred to in this order as "exempt agencies" and are exempt agencies for the purpose of General Ration Order 3B.) In addition, the Army Exchange Service, to the extent it acquires processed foods for export to a foreign country or a territory or possession of the United States (except the District of Columbia), and ships' service departments afloat, are exempt agencies under this order and General Ration Order 3B, and may acquire processed foods without restriction as to quantity.

Sec. 23.2 How exempt agencies acquire processed foods.

(a) Each of the agencies listed in Section 23.1 is authorized to open one or more exempt ration bank accounts of the type described in General Ration Order 3B. Processed foods may be "transferred" to and acquired by these agencies only in exchange for points in the form of ration checks equal to the point value of the processed foods transferred. However, processed foods may be transferred between or within these agencies without the surrender of points.

(b) Any "person" who transfers processed foods to any of these agencies must, at or before the time of delivery, submit to it an invoice or other statement for the points payable on account of the transfer. The ration check must be sent to the transferor at the time of delivery or as soon as practicable thereafter.

(c) If for any reason a ration check cannot be used when one of these agencies acquires processed foods, an emergency acknowledgment shall be given to the transferor, instead of a check. This acknowledgment may be in any form, but must show the name of the agency, the name and address of the activity within the agency for which the processed foods are acquired, the name and address of the activity to which the emergency acknowledgment must be sent for replacement by a ration check, the point value of the processed foods acquired, and the date of acquisition. The acknowledgment must be signed by an authorized officer or employee of the agency, and must show his official title or rank. A person to whom such an acknowledgment is given may not exchange it at a "board" or use it to acquire processed foods but must send it to the agency activity designated thereon, and a ration check for the amount of processed foods transferred

shall be given to him in exchange for the acknowledgment.

Exempt from Rationing

Amendment No. 3 to Ration Order 13 lists the processed foods covered by the order, and redefines processed foods. The foods covered by the order as first issued remain the same except that soups, dried and dehydrated, are added. An appendix is attached to Amendment 3 listing some 50 foods as not "processed foods" under that term as used in the order. Among these are the following exempt items, which did not appear in the exempt category in the original rationing order:

Artichoke paste, bouillon cubes, bread or cake with raisins including brown bread, cane syrups, condiment sauces (other than those containing a base of tomato products), corn syrup, date and nut bread, dehydrated vegetables (hermetically packed), dried mushrooms (hermetically packed), fruit flavoring bases prepared for use in the further manufacture of foods for human consumption and consisting of a combination of fruit juice with one or more of the following added ingredients: Accidulent, citrus oil, fruit extract or other flavoring material, hearts of palm and hearts of artichokes, horseradish, Maraschino cherries, mincemeat, mustard, peanut butter, peppers and pimientos.

CALCULATION OF POINT VALUES UNDER RATIONING

Order Prescribes That Individual Can Be Used As Computation Basis

Under the rationing requirements, point values must be calculated on the individual can basis only. For most of the can sizes the point value has been calculated by OPA, and was released in chart form (OPA Form R-1313) and given wide public distribution. These point values are to be used until changed by OPA. They may be changed from time to time, probably at or near the end of the ration periods. The first ration period terminates March 31.

Since the point value has not been issued by OPA for all can sizes, it will be necessary for canners to calculate the value per can for those can sizes not included in the classifications on Form R-1313. No. 10 cans, for example, have not been included on the chart. When calculating the point value of No. 10 cans, the following procedure should be used:

1. Obtain from OPA Form R-1313 the point value per pound of the product in the can;

2. Obtain the declared weight that will appear on the label;

3. Multiply the point value per pound by the declared net contents (fractions of a pound should be figured in quarter pounds, fractions of quarter pounds at the next higher quarter pound, that is, 6 pounds 4 ounces would be figured at 6¼ pounds; 6 pounds 5 ounces would be figured at 6½ pounds).

Frequently the above calculation will result in fractions of points. For example, a product having a per pound point value of 11 with a declared weight of 6 pounds 5 ounces would give a point value for a No. 10 can of 71.5. This would be rounded to 72, because the fraction is one-half or more. If the fraction is less than one-half, the fraction is dropped, that is, if the above calculation had resulted in 71.4, the point value would have been 71.

4. The point value per case is obtained by multiplying the point value per can by 6. Point values for larger quantities should be calculated accordingly.

Exempt Purchaser Rationing

Government agencies classed as exempt purchasers under various food rationing programs will open ration banking accounts upon which they may draw ration checks without limit, OPA announced March 1.

Heretofore, exempt agencies have received certificates from OPA entitling them to buy rationed foods in unlimited quantities. The new regulation substitutes ration checks for the purchase certificates. Among agencies affected are the Army, Navy, Marine Corps, Coast Guard, and Lend-lease.

The new regulation is General Ration Order 3B, under which exempt agencies will purchase rationed foods just as do other large buyers of food products.

Fuel Oil for Farm Machines

Rationing of kerosene and fuel oil for farm vehicles and machinery was placed March 4 by the Office of Price Administration on a six-month basis in a move to reduce the number of trips consumers must make to their local boards.

Up to the present time these allotments, as well as all other non-heating rations, have been issued for three-month periods. As a result of Amendment No. 42 to Ration Order 11, effective March 10, rations for domestic, institutional and agricultural purposes will be granted for six months at a time, where the ration is required for use beginning on or after March 10.

EDIBLE SEED RATIONING

Provisions for Obtaining Dry Peas, Beans, Lentils for Planting

Farmers who need dry peas, beans, and lentils for use as seed may apply to their local War Price and Ration Boards for certificates giving them the number of ration points necessary to buy the amount of seed they need for planting, the Office of Price Administration announced March 3. This provision is contained in Amendment 2 to Ration Order 13.

These products, whether bought for food or for seed, come under the processed foods rationing program, and require the surrender of stamps or certificates according to the point values already announced.

Seed beans, peas, and lentils are edible, the OPA explained, and when bought in bulk often cost little more than the same products bought for food. Selling them as seed requires the same control of distribution as it does when they are sold for food, in order to assure farmers the seed supplies they need, and at the same time to make certain that restricted supplies available for food will be distributed fairly.

Application for these products for seed should be made to the local Board where the applicant lives (on OPA Form R-315) and should give the following information:

1. The name and address of the applicant;

2. The reason he needs the dry beans, peas, or lentils for seed; and

3. The amount of seed needed, and any further information the Board may require.

A certificate for the number of points necessary to buy the quantity of seed authorized will be issued if the Board finds the products will be used for the purpose stated. The present point value of these products is eight points per pound.

Certificates may be used anywhere, and are good for a period of 60 days. Persons ordering seed by mail must send the ration certificate with their order. If seed is ordered from more than one establishment, separate certificates will be issued by the Board.

Seed which has already been ordered and which was in transit before March 1 may be received point-free by the person to whom it was shipped. However, on orders received since March 1, shipment must be held up until the point certificates are received.

Seed covered by this provision include dry peas, chick peas, lentils, garbanzo beans, kidney beans, navy beans, yellow-eye beans, soy beans, lima beans and dry snap beans.

DEPARTMENT OF LABOR RULES SEVENTH DAY DOUBLE TIME REQUIREMENT APPLIES TO CANNING INDUSTRY

Last September there was issued Executive Order 9240 which affirmatively required that on all work "relating to the prosecution of the war," double time must be paid for the seventh consecutive day's work. Because of the many ambiguities in this order, and the uncertainties when it would become applicable and the operations to which it might apply, efforts were made to obtain clarification from the Department of Labor. Recently the Secretary of Labor issued a comprehensive interpretation of this Executive Order. Since this did not clarify its application to the canning industry, particularly in view of the exemptions for seasonal and perishable commodities under the Wage and Hour Law, counsel for the Association addressed an inquiry to the Secretary of Labor and asked a number of specific questions.

On March 2, 1943, the Departmental reply, signed by the Special Assistant to the Secretary, was received. Set forth below is the Association's letter and the questions asked. After each question is presented the interpretation or reply given by the Labor Department.

Text of N. C. A. Letter

Reference is made to Interpretative Bulletin No. 1 of Executive Order 9240 issued on February 17, 1943, to become effective on March 1, 1943.

As you undoubtedly know, Section 7(c) of the Fair Labor Standards Act provides for an aggregate of 14 calendar weeks in which the provisions of Section 7 requiring overtime payment are inapplicable to the first processing or canning of seasonal or perishable fruits and vegetables. This exemption, which has been in effect since 1938, and has been the subject of numerous interpretations of the Wage and Hour Division, was presumably provided by Congress in order to permit the working of necessary hours in the first processing or canning of seasonal or perishable fruits and vegetables where the hours of work are dependent upon weather conditions and other seasonal factors beyond the control of the processor. Similarly, the Administrator of the Fair Labor Standards Act has found that the first processing or canning of such seasonal or perishable vegetables and fruits is a seasonal industry and has extended the provisions of Section 7(b) (3) of that Act to such operations.

Since the promulgation of Executive Order 9240 on September 9, 1942, considerable confusion has existed as to the application of that order to these operations covered by Section 7(b) (3) and Section 7(c) of the Fair Labor Standards Act. Since that time the difficulties of interpretation have been increased by the enactment of Public Law 729 of the Seventy-seventh Congress, approved October 2, 1942, and by the promulgation of the Executive Order 9250, October 3, 1942, establishing the Office of Economic Stabilization and of the various rules and interpretations issued by the National War Labor Board with respect to the payment of wages.

Your attention is likewise respectfully directed to the expanded production goals which have been announced by the Department of Agriculture and to the various reservation and rationing orders which have been issued with respect to canned foods. In general, the canning, freezing and dehydrating industries have been called upon for considerably increased production over 1942, and pursuant to War Production Board Order M-86-e (recently superseded by the Department of Agriculture Food Distribution Orders No. 22.2 and 22.3) varying percentages of the entire production must be reserved for subsequent government purchase. The remainder of the pack, for civilian consumption, is subject to various limitation orders on its shipment, and to the recently promulgated food rationing orders. The net effect of this series of regulations is not only to permit the increased production of processed seasonal or perishable fruits and vegetables, but likewise to increase the amount of labor necessary to its distribution and the customary sequence of shipment. Finally, the canning industry is subject to the regulations prohibiting wage increases, other than with the approval of the War Labor Board, and to the directives of the War Manpower Commission.

The reservation of portions of the pack for later government purchase is not interpreted by the agencies concerned as a formal contract to buy. Such products may be rejected by the government or, as in a number of cases, later released for civilian sale. At the time of harvesting and processing the particular commodity, the processor does not know definitely the specific portions of his pack which will be purchased by the Government. The extent of such purchase and the selection of the specific goods to be purchased is controlled by various extraneous factors, such as the size of the entire pack or any later modification of the reservation order, and is likewise subject to inspection prior to government purchase. When Executive Order 9240 was first issued it was widely understood to be directed to the elimination of certain premium payments rather than to require the inauguration of additional overtime payments not theretofore required by statute. It was stated to apply to all work "relating to the prosecution of the war" performed by the employee "in his regularly scheduled workweek." Of course, since the processing of these seasonal or perishable fruits or vegetables is dependent upon the receipts of the agricultural commodities, as they are harvested, there is no regularly scheduled workweek. This is recognized by Sections 7(c) and 7(b)(3) of the Fair Labor Standards Act.

The statutory authority of this order is not clear, particularly since Section 5(c) of the Act of October 2, 1942, confers authority only to limit or prohibit the payment of double time and Section 4 thereof precludes any action with respect to wages which is inconsistent with the Fair Labor Standards Act. Nor is it clear whether the order is self-executing or becomes applicable only when a specific government contract is entered into containing a stipulation making it applicable. Paragraph II of the Executive Order directed the revision of contracts to conform such contracts to the provisions of the order. So far as is known, no specific revision has been made by any Department procuring these processed foods. Moreover, since such contracts are not entered into until after the pack is completed, and the reserved goods segregated and inspected, it is not clear whether the requirements of the order would apply only to work subsequently performed or to all work involved in the processing of such foods. Inasmuch as at the time of packing it is impossible to determine what part of the pack will ultimately go to the Government and what will go for civilian consumption, if the double time provisions are applied, the additional cost will have to be brought to the attention of OPA in determining 1943 price ceilings on such canned foods. Moreover, there is considerable question as to whether such increase in wage payments does or does not require additional specific approval of the War Labor Board since counsel for the Board has advised that where the 7(b)(3) and 7(c) exemptions have been taken in the past, Executive Order 9250 requires that they continue to be taken in the absence of specific approval for their discontinuance.

It is respectfully submitted that none of these questions are answered by the recent Interpretative Bulletin No. 1. In view of the numerous other complicated regulations under which this processing industry must operate in 1943, it is deemed important that the precise application of Executive Order 9240 to its operations be determined. For this reason we would very much appreciate being advised as to the Department's interpretations with respect to the following questions:

Questions and Replies

1. Does Executive Order 9240 require the payment of double time on the seventh consecutive day of work in the first processing or canning of seasonal or perishable fresh fruits and vegetables where Sections 7(c) and 7(b)(3) of the Fair Labor Standards Act per-

mit such work without the payment of overtime?

Reply.—The provisions of the Fair Labor Standards Act have no bearing in determining coverage under the Executive Order, and if coverage exists, the requirements of the Order with respect to the payment of double time must be complied with even though such work would not require premium compensation under the terms of other statutes or employment contracts.

2. Does the Order apply to the entire processing operation or only to work done after the execution of a contract for the sale of such processed foods to the Government?

Reply.—The Order would apply to all processing operations, whether performed before or after the execution of a contract for the sale of the finished product, provided that at the time such processing was being performed, the processor had reason to believe that the ultimate product would be used in the prosecution of the war effort.

3. Is the Order applicable where the procurement agency does not include in its contract any mention of or reference to the Order?

Reply.—The answer to this question is in the affirmative.

4. What is the distinction, referred to in Paragraph 33 of Interpretative Bulletin No. 1, between premium rates which "are permitted but not required"?

Reply.—The cases of premium payments which "are permitted but not required" by the Order are time and a half for the sixth day worked in the workweek, and time and a half for hours worked in excess of 8 in a day or 40 in a workweek, where such payments are required by applicable statute or employment agreement.

5. If the Order requires double time for work on the seventh consecutive day, where overtime is not required by the Fair Labor Standards Act, what rule or regulation of the National War Labor Board authorizes the payment of such increased rate for the seventh day?

Reply.—The premium payments required by Executive Order 9240 do not, in my opinion, constitute wage increases requiring the approval of the National War Labor Board.

6. In the event of inadvertent failure to comply with the Order with respect to the required payment of additional compensation, what penalties are applicable or what method of adjustment should be followed?

Reply.—This Department is charged only with the interpretation of Executive Order 9240. It is not charged with the enforcement of the Order, and such enforcement is the responsibility of the contracting agency of the Government for which the employer is engaged in producing goods.

48-HOUR WEEK PROVISIONS

Order Covers All Establishments Hiring Eight or More Workers

Regulations have been issued by the Chairman of the War Manpower Commission governing the application of the 48-hour work week in 32 areas heretofore designated as "labor shortage areas." Executive Order 9301. requiring the establishment of such a workweek, was discussed in INFORMATION LETTER No. 921, page 7493. In addition to the 32 areas heretofore designated as labor shortage areas, the Chairman of the War Manpower Commission extended the application of the order to a number of lumbering and non-ferrous mining industries. A 48-hour week in these industries will be required on a nation-wide basis, and it is expected that the War Manpower Commission will, from time to time, enlarge its list of industries which must comply with the 48-hour week.

The order applies to *all* establishments in the 32 labor-shortage areas regularly employing eight or more workers, irrespective of whether the establishment is engaged in war work or in civilian activities only. It is likewise apparent that the order will be applied on a plant basis.

Since any *establishment* principally engaged in agriculture has been specifically excluded from the application of the order, any canner who operates a farm need not comply with the order if the workers are engaged in farm activities. It is believed that any employee exempt under the Social Security Act as an agricultural worker may be considered exempt from the order requiring a 48-hour workweek. It should be particularly noted, however, that packing, canning, or processing operations which are performed as an incident to commercial canning operations are included in the application of the order.

Although seasonal workers are not specifically exempted from the application of the order, *it is believed that the order does not apply to seasonal workers employed by canneries during the packing season whose work is regulated by the flow of the raw commodity into the cannery.* The definition of the term "minimum wartime workweek" recognizes the difficulty of applying the order to certain types of operations, and permits an exception from the 48-hour week where the nature of operations makes such a scheduled workweek impracticable.

The 48-hour workweek is applicable, however, to all full-time employees in critical areas. Thus it covers year-round employees, office employees, maintenance employees, or any employees engaged in the packing of non-seasonal products. If a canner determines that the extension of his workweek for such employees to 48 hours will result in the release of any of his *regularly* employed workers, he is prohibited from extending the normal workweek until permission to do so has been received from the Regional or Area Director. Such a canner, must, however, submit to the Regional or Area Manpower Director on or before April 1, 1943, a detailed statement giving all essential information concerning the workers who would be released. If the Regional or Area Director determines that the workers can promptly be placed in other employments, the canner will be notified immediately to switch to the 48-hour week. If no such alternative jobs are available, the Regional or Area Director will authorize a schedule for the extension of the workweek, which will result in the fullest utilization of the workers in that area.

If an extension of the workweek will not involve the release of any workers, but will permit increased production in the establishment, the employer is required immediately to adopt the 48-hour week.

If the canner packing non-seasonal products is operating on less than a 48-hour week and the 48-hour week will neither increase production nor release any workers, he should immediately increase his workweek to 48 hours, if feasible, or to the greatest number of hours (less than 48) feasible in view of the nature of his operations. The regulations were intended to permit some degree of flexibility, and although no standard has been laid down as a guide determining just what constitutes "full utilization of available manpower," the Regional Manpower Director undoubtedly will authorize a workweek of less than 48 hours where it is shown that, because of the nature of the operations involved, a shorter workweek will result in the most effective use of all employees. Inasmuch as the regulations prohibit the hiring of any employees until compliance with the regulations has been attained, it is suggested that any canner in the critical areas desiring to adopt a shorter workweek should notify the Regional or Area Manpower Director of the length of the workweek which he desires to adopt, and submit sufficient information to establish the fact that full utilization of his employees will thereby be obtained.

If a canner is in doubt as to the particular application of the executive order and regulations to his operations,

further inquiries should be directed to his Regional or Area Manpower Director.

Troublesome questions may arise in connection with the application of the Wage Stabilization Law to increased compensation to employees. Executive Order 9301 (authorizing the 48-hour week) specifically states that it shall not be construed to modify or suspend any provisions of the Fair Labor Standards Act and it seems clear under regulations of the War Labor Board that employers may, without specific approval, pay time and one-half to employees where required by the Fair Labor Standards Act. Conversely, the payment of overtime for a 48-hour week would not be required during a 7(b)(3) or 7(c) week. With respect to those employees who are not covered by the Fair Labor Standards Act, however, it is not clear what extra compensation may, or must be, paid. Although no formal interpretations have been issued on this point, it is probable that the War Labor Board will permit the payment of straight time (without specific authorization) to employees not entitled under the Fair Labor Standards Act to receive time and one-half for the hours in excess of 40 per week. It likewise seems clear that the payment of time and one-half to non-covered employees will require specific approval of the War Labor Board, since such payments would result in an increase in the employees' rate of pay. It is suggested, however, that canners secure an expression of opinion from the Regional Wage and Hour Division before increasing the compensation of any employee who is exempt under the Fair Labor Standards Act.

With respect to employees subject to the jurisdiction of the Treasury Department (employees receiving salaries in excess of $5,000 and all executive, administrative and professional employees not represented by a duly certified labor organization, regardless of amount of compensation), any increased compensation should be cleared with the Regional Salary Stabilization Unit.

The administration of the executive order will be handled in the various regions, and authority has been given to Regional and Area Manpower Directors to fix the exact boundaries of the labor shortage areas, and to designate additional areas and activities subject to the 48-hour workweek upon a finding that labor shortages are holding back the war effort.

Since hiring of all employees in the labor shortage areas will be controlled by the U. S. Employment Service, no employees will be referred to any employer who is not complying with the order. All government departments are directed to require their contractors to comply with the order. The regulations likewise prohibit any employer from hiring any worker in a labor shortage area unless he has fully complied with the requirements of the regulation.

As previously stated, administration of the order will be in the hands of the Regional and Area Manpower Directors to whom employers in the various areas may direct inquiries as to the interpretation and application of the order.

Priorities for Boxes

Canners must now use ratings provided in Order P-140 to obtain fiber boxes. (See INFORMATION LETTER for February 27.) Priorities Regulation No. 3, as amended February 16, specifically excludes fabricated containers from the "operating supplies" provisions of Order P-115. Order P-140 provides automatic ratings for shipping containers made of wood or fiber.

Packaging for Overseas

Specifications which prescribe the proper methods of packing war materials for overseas shipments were made available March 3 by the Container Coordinating Committee of the War Production Board. The specifications are designed to insure proper delivery of war materials in usable condition, with the most efficient utilization of containers and of transportation and distribution facilities.

A booklet, "Army-Navy General Specifications for Packaging and Packing for Overseas Shipments", was released by the Division for distribution to manufacturers and shippers engaged in the war program. It is for use by the armed forces, war agencies, and contractors.

All shipments of war materials and supplies, whether scheduled for immediate shipment overseas, or for delivery to storage and subsequent shipment overseas, must comply with the requirements and instructions given in the booklet.

Copies may be obtained at the Containers Division or at any of the cooperating agencies—Army, Navy, USDA, Treasury Department, WPB, Lend-lease Administration, War Shipping Administration and ODT.

WPB ALLOCATES PAPERBOARD FOR V-BOX PRODUCTION

Beginning with April, containerboard mills are directed to set aside 25 per cent of their monthly kraft and jute containerboard production for allocation by the War Production Board to container manufacturers making V-boxes for the armed forces and Lend-lease, under the terms of Conservation Order M-290, announced March 3 by WPB.

V-boxes are the new type of shipping container made from solid or corrugated fibre and developed to replace wood for many military and Lend-lease export shipments.

Each mill is required to reserve facilities to produce and ship, during the coming month, 25 per cent of the projected supply of kraft containerboard and 25 per cent of the projected supply of jute containerboard for allocation to container manufacturers. The reserve production must be in addition to any other production required to be set aside by Conservation Order M-241, or any other WPB order.

WPB may direct any mill to produce the allocated quantities in specified grades and ship them to designated container manufacturers.

Allocations may be made first only to box manufacturers who have V-box orders. Then, if any balance of reserves is left, allocations for other essential containers will be considered. Only containers listed under Preference Rating Order P-140 will be considered for such allocation.

Box manufacturers may use reserve containerboard only for the production of V-boxes or such other containers as may be authorized by the Director General for Operations.

Wooden Box Standardization

Wooden containers for shipping fresh fruits and vegetables were standardized and simplified under the terms of Limitation Order L-232, issued March 1 by the War Production Board. The action is intended to conserve lumber, metals, and manpower by facilitating the reuse of containers and by increasing efficiency of container manufacturers. The amount of wooden containers available to users will not be reduced, it was stated.

FOOD AND DRUG RULING

Supreme Court Upholds Validity of FSA Standards of Identity

On Monday, March 1, the United States Supreme Court, in its first decision under the Federal Food, Drug, and Cosmetic Act of 1938 (*Federal Security Administrator* v. *Quaker Oats Company*, March 1, 1943. No. 424), upheld the power of the Federal Security Administrator in issuing standards of identity for food products, to exclude non-deleterious ingredients. It rejected the view, which had been adopted by the Circuit Court, that the Act requires only informative, truthful labeling.

Under the Federal Food, Drug, and Cosmetic Act, which empowers the Federal Security Administrator to issue regulations establishing "a reasonable definition and standard of identity" for food products, whenever that action will "promote honesty and fair dealing in the interest of consumers," the Administrator had issued standards of identity for farina and enriched farina. The former standard did not allow the inclusion of Vitamin D, while the latter required the inclusion of certain other vitamins, and authorized the use of Vitamin D merely as an optional ingredient.

For many years prior to the Administrator's action, the Quaker Oats Company had manufactured and marketed a product labeled, "Farina . . . Enriched with Vitamin D." By reason of the presence of Vitamin D, that product did not conform to the standard of identity prescribed for farina, and because of the absence of certain vitamins required by the standard for enriched farina, it could not properly be marketed under that name. Accordingly, the Quaker Oats Company sought review of the Administrator's order promulgating the standards.

The Circuit Court of Appeals for the Seventh Circuit upheld the Company's contention that the standards were unreasonable. Although the Administrator contended that consumers were confused by the presence on the market of various types of products described as enriched farina, and that it promoted honesty and fair dealing in their interests to issue the limiting standards, the Court indicated that the Administrator's power did not extend to the exclusion from any product of wholesome and beneficial ingredients. It nullified the Administrator's power to issue effective identity standards by determining that the statute only requires that products be honestly and truthfully labeled, and that since the Quaker Oats Company's product was honestly and truthfully labeled, it could be marketed despite the fact that it did not conform to either standard.

The majority of the Supreme Court (Mr. Justice Roberts dissented, and Mr. Justice Murphy and Mr. Justice Rutledge took no part in the decision of the case) upheld the farina standards, and determined that the Administrator "has statutory authority to adopt a standard of identity which excludes a non-deleterious ingredient, in order to promote honesty and fair dealing in the interest of consumers." From a review of the text and legislative history of the Food and Drug Act, the Court concluded that "its purpose was not confined to a requirement of truthful and informative labeling." Instead, it was designed to authorize the Administrator to issue standards "under which the integrity of food products can be effectively maintained . . . and to require informative labeling only where no such standard had been promulgated, where the food did not purport to comply with the standard, or where the regulations permitted optional ingredients and required their mention on the label."

The Court, in effect, approved the Administrator's finding that the issuance of the farina standards would eliminate a source of confusion to purchasers and would, accordingly, "promote honesty and fair dealing" in their interests. In doing so, it rejected the narrow interpretation of the Act adopted by the Circuit Court, and placed the emphasis under the statute upon the protection of those consumers who are, in general, ignorant of the composition of the foods they purchase and, consequently, unable to guard against buying something inferior or unsuitable.

Under the majority decision, the Federal Security Administrator is authorized, when acting reasonably and within the statutory limits of his authority, to issue regulations covering the ingredients which can, or cannot, be included in any product sold under a specified name. Since he necessarily has a "range of choice" in determining what may be included, the mere fact that his choice among the available ingredients is not the only reasonable one which could have been made, does not justify a contest of his regulations. The Act does not contemplate that the courts shall substitute their judgment for his judgment. It is enough that he acted "within the statutory bounds of his authority, and that his choice among possible alternative standards adapted to the statutory end is one which a rational person could have made."

FISH QUOTAS EXTENDED

Salmon, Pilchard, Atlantic Sea Herring, Mackerel, Covered Through March

Food Distribution Order No. 23, governing allocations of salmon, pilchard, Atlantic sea herring and mackerel packed from March 1, 1942, through February 28, 1943, was amended March 1, by the Secretary of Agriculture, to have those allocations apply also during the month of March, 1943. This action is Amendment No. 1 to the order.

As in the past, 60 per cent of the salmon packed by a canner in March, 1943, must be delivered to the Government, and the remainder may be released to the civilian trade for later distribution. Eighty per cent of the pilchard, Atlantic sea herring and mackerel packed by a canner in March must be reserved for the Government, with the remaining 20 per cent available for civilians.

Text of Amendment 1 to FDO No. 23 follows:

Pursuant to the authority vested in me by Executive Order No. 9280, dated December 5, 1942, and to assure an adequate supply and efficient distribution of canned fish to meet war and essential civilian needs, Food Distribution Order No. 23 (8 F. R. 2250) issued by the Secretary of Agriculture of the United States on February 19, 1943, is hereby amended as follows:

First, By deleting the words and figures "February 28, 1943," wherever the same appear in Section 1465.11(a) (2) and Section 1465.11(b) (1) of said Food Distribution Order No. 23, and by inserting, in lieu thereof, the words and figures "March 31, 1943."

Second, By deleting the last sentence in Section 1465.11(b) (3) of said Food Distribution Order No. 23 and by inserting, in lieu thereof, the following:

"The following quota periods are hereby established: Period No. 1 is from March 1, 1942, to February 28, 1943; and Period No. 2 is the month of March, 1943."

Regulations covering disposition of fish packed from April 1, 1943, to February 29, 1944, inclusive, will be issued later, it was stated.

Fruit Cocktail Percentage

The percentage of the base period pack of canned fruit cocktail which must be reserved for the Government under Order FDO 22.2 was reported in the mimeographed copy of the order issued by the Department of Agriculture as 164 per cent, and was used for publication in last week's INFORMATION LETTER. Later, the correct percentage —64 per cent—appeared in the printed copies released by the Department.

WANTED AND FOR SALE

Machinery—Equipment

This column is open only to members of the Association who want to buy or sell canning machinery and equipment. Names of firms listing the items below will be furnished upon application to the Association. In requesting names, please identify items by number.

WANTED

71-W—Urschel dicer. First preference—Urschel Model B to cut ¼ x ¼ x ¼-inch cubes; second choice Urschel Model 6 dicer, to cut ⅜ x ⅜ x 3/16-inch cubes. Will buy machine outright, or rent until June 15.

72-W—Sixteen dozen 12-quart enamel pails.

73-W—Fourteen dozen pans, 2½ inches deep, inside bottom, 10 by 15¾ inches long.

74-W—No. 10 automatic filler with briner for peas.

75-W—Ten to twenty 3- or 4-crate standard retorts and baskets.

76-W—Two 150 h.p. H.R.T. boilers, A.S.M.E. code specifications.

77-W—Two 150- or 200-gallon stainless steel or nickel steam jacketed open top kettles.

78-W—Three Buck automatic bean nippers.

79-W—Buck bean grader.

FOR SALE

90-S—Flash pasteurizer, 8-foot, 8-tube, made by Cleveland Union. Complete, unit on stand. Suitable for tomato juice or other similar products.

91-S—Nine sets of 2-inch used Kook-Mor coils.

92-S—Six can washers, as follows: Two Hansen washers for 150 standard No. 2 cans per minute, on supporting frame with motor base but no motor; one Hansen washer for 300-diameter cans; three Wolfinger washers, each capacity 145 cans per minute, for 300 x 408, No. 1, and No. 2½ cans, respectively.

93-S—Six fillers, as follows: Pneumatic Scale straight line, 24-nozzle, for 8- and 14-oz. catsup bottles, 110 per minute, nickel parts in contact with product; Ayars 10-pocket with syruper for 300 can capper drive; Ayars 5-pocket for 211 cans; Ayars 60-minute plunger type, 6-pocket metal frame (no motor), for jam, jelly, chili sauce; Plummer pea; Ayars No. 4096.

94-S—Four boxers, as follows: Two Standard-Knapp fitting case 10½ x 14-inch of standard No. 2 cans, motor drive but no motor; one Knapp type E, for 303 cans, single tier; one Knapp No. 32, Model E.

95-S—Two pea washers: Standard Olney, with belt drive; Sprague-Sells vibrating washer and skin remover, 22 inches by 5 feet 6 inches, belt drive.

96-S—Three picking table fanning mills, 18-inch wide belt drive.

97-S—Two Monitor whirlpool blanchers with belt drive.

98-S—Apple paring equipment: Four Boutell improved Triumph double feed units made up of two machines per unit, each machine having two forks, 40 apples per minute; two sets paring machine frames of 12 paring units each, frames having feed belts to parers, trim tables, conveyors for pared apples and waste and capacity 48 paring units, belt driven; four Coons semi-automatic feeder and paring units, capacity 50 apples per minute per unit, belt drive; six Coons paring machines.

99-S—Two Baker pulpers, wood frame, belt drive, capacity 150 bushels of apples or other fruit per hour.

100-S—Seven pumps, as follows: Three Worthington steam, 5½ x 3½ x 5 inches, suction 2½-inch, discharge, 1½, for pumping liquids; one Beach-Russ vacuum, used on Anchor capping machine, single head, belt drive; one Deming No. 11326½, Figure 1800, 4 x 4½; one Goulds gear, 2-inch suction, 1½ discharge.

101-S—Kork-N-Seal capper, foot operated.

102-S—Six kettles, as follows: Two 150-gallon copper jacketed—can be used as holding tank only; one Pfaudler glass-lined jacketed, capacity 600 gallons; one Glasscote Type A Standard, glass-lined, 300 gallon; one Burkhard copper, 100-gallon, high pressure 38 x 38, fitted with 3-inch drain valve and stand; one copper, 34-inch diameter, 31½ deep, high pressure, 3-inch drain valve and stand.

103-S—Two pomace separators, 20 x 48 inches, bronze screens, belt drive.

104-S—Two American Utensil Model B juice extractors, belt drive, nickel alloy covers and stainless steel body.

105-S—Pfaudler jacketed glass lined tank, 50 inches diameter by 36 inches deep, no legs.

106-S—Two syrupers: Ayars 12-valve, stainless steel bowl and contact parts, for 211 cans; Anderson-Barngrover 12-valve, bronze bowl.

107-S—Apple grading and sorting equipment, as follows: Four grading units, culling under 2½ inch, complete with feed belts and roller sorting tables 24 inches wide, capacity 150 bushels per hour, belt drive; three Trescott Model 5 hand drive graders (for sample grading of apples only); one Niagara apple grader for packing house operations, all grades sorted, capacity 250 bushels per hour, belt drive.

108-S—Bottle washers: U. S. Rotary, 60 bottle capacity, motor drive, without motor; Karl Kiefer washer for 8- and 14-ounce catsup bottles, less motor, automatic rinser and sterilizer, 120 a minute capacity.

109-S—Sprague-Lowe copper coils: Seven, 62 inch diameter, 2 tube, 3 inch; ten, 3 tube 3 inch, 32-inch, 40 inch, 45 inch diameter.

110-S—Five platform scales, 2-5 beam, 3 single beam platforms, 16 x 25 inches and 29 x 29 inches.

111-S—Single O & J labeler, Serial No. 287, with intake and discharge mechanism.

112-S—Feeder disc for Horix filler.

113-S—Ferguson sealer No. 119.

114-S—Smith apple sauce cooker.

115-S—Oliver filter press for fruit juices. Ser. No. 4965.

116-S—Nutting Company push truck, 30 x 60.

117-S—Apple conveyors, several varieties and sizes.

118-S—Three speed reducers.

119-S—Mitchell pineapple grinder.

120-S—Clipper pea cleaner No. 1B.

121-S—Scott Viner rotary screen and bean washer.

122-S—Seventy-eight 8-inch perforated galvanized elevator pockets for Sprague-Sells goose neck elevator.

Harry A. Kelleher Dies

Harry A. Kelleher, 54, assistant to the general manager of the Campbell Soup Company, died on February 21 at a Camden, New Jersey, hospital, following an illness of more than a year. Mr. Kelleher started his career with the Campbell Company in the time-keeping department 30 years ago. Later he was made a plant manager, and a few years ago was promoted to the post he held at the time of his death. He was a former president of the Campbell Soup Athletic Association.

Born in Camden, Mr. Kelleher had been active in city and county affairs, serving in Red Cross drives and holding offices in the Camden County Chamber of Commerce and the New Jersey State Chamber of Commerce. Also he was an active member of the Camden lodges of the B.P.O.E. and the L.O.O.M.

Frozen Foods Order Revoked

The Office of Price Administration March 1 formally revoked Maximum Price Regulation No. 212 (Frozen Fruits, Berries and Vegetables at Wholesale and Retail) because these commodities have been covered since November 6, 1942, by MPR No. 255 and 256 (Permitted Increases).

Since last November, wholesalers and retailers have been pricing frozen fruits, berries and vegetables under the permitted increase regulations and the revocation is purely technical.

Farm Help from School Children

Secretary of Agriculture Claude R. Wickard sent telegrams March 3 to the Governors of the 48 States proposing the release of young people from schools in small towns and rural areas to help with the planting of essential crops this spring in labor scarcity areas. This action supplements other farm labor measures being undertaken by the Department through its newly organized Agricultural Labor Administration.

Will Purchase Strawberries

The Department of Agriculture announced March 1 that it will purchase sulphur dioxide-packed strawberries this summer in southern and southwestern States to meet war export requirements.

The purchase program will operate similarly to that of last year when 21,739,000 pounds of processed strawberries were purchased. It is expected that about the same amount will be purchased in 1943 in this area which includes the States of Florida, Louisiana, Arkansas, Alabama, Tennessee, North Carolina, South Carolina, Oklahoma, and Kentucky. Purchases also may be made in other States, depending on available supplies of strawberries when the crop is marketed.

Purchases will be made through approved packers who contract with the Food Distribution Administration. The contracts will specify the grower prices that the packers must pay to be eligible to sell to the Government. While the purchases will be made on negotiated basis, Food Distribution Administration officials said that prices to be paid will take into account increased production costs this season.

Only the varieties of strawberries suitable for processing in sulphur dioxide solution—Klondyke (including Klonmore and 630) Blakemore, Missionary, and Marshall varieties — will be purchased. They are to be packed in 50-gallon, white oak barrels and preserved by adding the sulphur dioxide solution. They will be sent to the Allies to be made into jams—primarily to take the place of the spreads made from fats and oils, such as butter, that are in short supply.

USDA Establishes New Agency To Handle Farm Labor Problem

Secretary of Agriculture Claude R. Wickard announced March 1 the formation of an Agricultural Labor Administration in the Department of Agriculture. The Labor Administration will be responsible for the development and direction of all phases of USDA's farm labor program and will report directly to the Secretary. It will take over the farm labor work previously carried on by the Agricultural Labor Branch of the Food Production Administration and also will integrate farm labor work done by other Department agencies, including that of the Food Distribution Administration, the Farm Security Administration, and the Extension Service.

Wayne H. Darrow, associate director of the USDA Office of Information, has been named Director of the new labor agency. Fred Morrell, Mrs. Julien N. Friant, and Wm. L. Teutsch have been named as his assistants. Mr. Morrell has been in charge of Civilian Conservation Corps activities in the Department, Mrs. Friant has been engaged in field work with women's groups, and Mr. Teutsch is Assistant Director of the Oregon Extension Service.

Major John O. Walker, chief of the Agricultural Labor Branch of FPA, has been asked by the Bureau of the Budget to undertake a special study on government organization and will leave the Department soon for that task. Until then he will assist in the organization of the new Labor Administration.

The Department's farm labor program, which will be carried out in cooperation with the Extension Service and other Federal and State agencies, calls for the recruiting of some 3,500,000 voluntary workers by the peak harvest season; transportation of approximately 300,000 seasonal workers, including 50,000 foreign workers; recruitment of several hundred thousand additional high school youths and women workers, and the movement of 50,000 year-round workers from submarginal farming areas for work on dairy and general purpose farms.

LEND-LEASE FOODS REPORT

Stettinius Statement Cites Shipments Of Canned and Dried Items

Edward R. Stettinius, Jr., Lend-lease Administrator, has made the following statement on 1943 Lend-lease shipments of foods which are now under points-rationing—canned and frozen fruits and vegetables, dried peas and beans, and dried fruits:

"In 1942 we exported under Lend-lease, eight-tenths of one per cent of our canned vegetables—less than one can out of every 100—and one and seven-tenths per cent of our canned fruits and fruit juices—less than two cans out of every 100. In January, 1943, Lend-lease shipments of canned vegetables were one-third of the average monthly shipment of canned vegetables last year. In January, 1943, Lend-lease shipments of canned fruits and fruit juices were one-quarter of the average monthly shipment of canned fruits and fruit juices last year.

"The rate of shipments is likely to increase later, but total Lend-lease canned fruit and vegetable shipments for the year 1943 are expected to be less than three out of every 100 cans of the 1943 pack.

"The shortage of canned fruits and vegetables is due to a combination of heavy U. S. military requirements, increased consumer purchasing power in 1942, and limitations on the amount of tin-plate allocated for canning. Almost all of that part of the 1943 pack reserved for government purposes will go to U. S. armed forces, not to Lend-lease.

"No frozen fresh fruits and vegetables were shipped under Lend-lease in 1942, none were shipped in January, 1943, and we do not expect to ship any this year.

"Lend-lease shipments of dried peas, dried beans and dried fruits were considerably larger in January than average monthly shipments in 1942. Last year we shipped under Lend-lease five per cent of the total supply of dried peas and beans and not quite 16 per cent of the dried fruit supply. January shipments were about three times the average monthly 1942 shipment of dried peas and beans and twice the average monthly 1942 shipment of dried fruits. Most of the dried peas and beans were shipped to Russia for the Soviet Army."

A Kind Word from Overseas

A recent letter to Association headquarters from a canner with the Armed Forces overseas says: "I have received two batches of the INFORMATION LETTER and surely appreciate them as they have been my only printed contact with the world. . . . You are doing a grand job back home, and I know that yours will be no small share in the success that will some far distant day be ours. It's having folks like you back home that gives us courage to go on."

INDUSTRIAL USERS OF PROCESSED FOODS MUST REGISTER

Past Use Is Basis of Allotments Under OPA Rationing Method

Industrial users of processed foods will continue registering with their local War Price and Ration Boards until March 10, the Office of Price Administration announced March 2. Registration began March 1.

For purposes of this registration, industrial users are defined by OPA to include bakers, candy and ice cream manufacturers, manufacturers of jams and jellies, concerns making beverage bases used to flavor bottled drinks, and all other industries which use processed foods in the manufacture of items not in themselves defined as processed under the rationing program.

OPA Form R-1308 is used for this registration, and is filed either in person or by mail with the local board office nearest the industry's principal office. Although only one report form is filed by each industrial user, he must attach to this report a separate statement for each other establishment he operates, reporting inventories as of the close of business on February 28, and a statement of past use.

This statement of past use, OPA explained, is the basis of allotments under rationing. Reports are made for three periods,—January through April, inclusive, May through August, and September through December. First rationing allotments are for March and April of 1943, and are figured on the amount reported as used between January and April of last year, multiplied by a "factor" set by OPA. This factor, it was explained, takes several things into consideration, including the reduction in time from a 4-months' "use" period to a 2-months' allotment, the average point value of the food, and the general reduction of these foods under average point value of the food, and the general reduction of these foods under rationing.

Thus an industrial user who used 2,000 pounds of dried and dehydrated foods during the first four months of last year may determine his allotment for March and April of this year by multiplying 2,000 by the "factor" supplied by OPA. The result will give him the number of "points" which he may invest in the same general class of foods for the allotment period. He may use these points for any kind of food he desires within the given classification. Value of the points is the same as that fixed for individual consumers under point rationing. Factors for determining allotments are as follows:

1. Canned and bottled processed foods, dry beans, peas, and lentils—2.5.

2. Dried and dehydrated processed foods, including dried and dehydrated processed soups and soup mixtures—5.1.

3. Frozen processed foods—3.3.

Industrial users who do not register during the first ten days of March may register later. Unless they show good cause for the late registration, however, their allotments will be proportionately reduced. Prior to late registration, they may neither buy nor use rationed foods for use in their establishment.

Factors are issued as Supplement No. 1 to Ration Order 13, and became effective March 1.

Appointments Made at WPB

Appointments to key positions on the War Production Board top staff were announced March 3 by Chairman Donald M. Nelson and Charles E. Wilson, Executive Vice Chairman. The appointments are preliminary to a regrouping of WPB staff functions which are now being worked out in detail.

Ralph J. Cordiner, who has been Director-General for War Production Scheduling, becomes a Vice Chairman of WPB and will serve as a special assistant to Mr. Wilson.

J. A. Krug, Director of the Office of War Utilities, is named Vice Chairman of WPB in charge of Materials Distribution. He also becomes chairman of the Requirements Committee and will continue to serve as War Utilities Director.

Donald D. Davis, recently Director of the Program Bureau, becomes WPB Vice Chairman for Operations.

Curtis Calder, until March 3 Director General for Operations, will be Executive Assistant to Mr. Wilson.

William L. Batt will continue to serve as a WPB Vice Chairman, and Col. Robert E. Johnson, head of the Smaller War Plants Corporation, retains the rank of Deputy Chairman.

Mower Heads Container Branch

Appointment of Roswell C. Mower as Director of the Containers Division of the War Production Board to succeed Charles L. Sheldon, who has resigned, has been announced. Mr. Sheldon will return to the Hood Rubber Company of Watertown, Massachusetts, where he is purchasing agent.

Mr. Mower came to WPB in July, 1942, as a special assistant to the Director and was made Deputy Director in December, 1942. He is vice-president of the Manz Corporation of Chicago, color and catalog printers.

E. F. Tomiska, Assistant Director, will succeed Mr. Mower as Deputy, and Allan L. Brack, chief of the Fibre Section, will succeed Mr. Tomiska.

Canned Poultry Sales Not Banned

Canned chicken meat, canned turkey meat and other canned poultry meat are exempt from the freeze on sales of canned meat, the Office of Price Administration explains. Sales of these canned poultry products may be made without restriction.

Sales of canned meat and canned fish were frozen in mid-February and are not to be resumed until meat is rationed. The only meats to which the freeze applies are any edible part of cattle, calves, sheep, lamb and swine.

Canned chicken soups, however, like all other canned soups, will be sold under the processed foods rationing program which began March 1.

Fresh Vegetable Meeting Called

Members of the West Coast fresh vegetable trade will meet with Office of Price Administration officials in San Francisco, March 8 and 9, to discuss permanent ceilings on fresh produce, OPA has announced.

The open meeting will be held in the Room of the Dons, Hotel Mark Hopkins, March 8 at 10 o'clock. OPA's representatives will be Geoffrey Baker, Price Executive Grocery Products Branch, Food Price Division; and George Sterling, Business Specialist. Some 200 members of the trade are expected to attend.

Canned Milk Statistics

According to a report by the Bureau of Agricultural Economics, production of evaporated milk (case goods) continues to show a seasonal pickup. January output, estimated at 203,786,000 pounds, was 25,762,000 pounds larger than the December production, and 40,138,000 pounds larger than the seasonal low reported for November. However, compared with a year ago, production is still much smaller, January, 1942, being 35 per cent lower than January of last year.

Production of sweetened condensed milk (case goods) in January also picked up seasonally. The estimated output of 8,250,000 pounds was 159 per cent greater than the corresponding production last year, compared with a gain of 17 per cent in December.

To Complete Detinning Plant

The Vulcan Detinning Company, of Sewaren, New Jersey, has been authorized by the War Production Board to resume construction on its Neville Island (Pittsburgh) plant which had been halted by the revocation order of February 10.

Resumption of work on this plant is permitted in view of the fact that the facilities are almost completed and a very small amount of critical material and equipment is needed to place the plant in operation. Revocations of authorizations to construct other detinning plants, as announced February 10, remain in effect.

Freight Handling Campaign

The importance to the war effort of good packing, secure loading and careful handling of freight shipments will be stressed in a nation-wide campaign to be sponsored by the National Association of Shippers Advisory Boards.

Participating in the campaign, which will be conducted during April, are the 13 regional Shippers Advisory Boards, the Association of American Railroads, the Railway Express Agency and other interests. The drive will be highlighted by the holding of a series of local meetings in many of the principal cities during the month.

House Committee Bills Reported

Both the House Committees on Banking and Currency and Agriculture reported favorably this past week bills that would prevent deductions being made in the establishment of price ceilings for agricultural products or commodities produced in whole or in part from agricultural products. Deductions which would not be permitted include amounts paid as subsidies, incentive payments, conservation payments, or any other payments. The bill reported by the Agriculture Committee passed the Senate on February 25 and would in addition prevent such deductions in the calculation of parity prices. Provisions of each bill would direct government agencies to make adjustments in prices heretofore established to conform with the provisions of the bills.

Correction of M-81 Changes

Errors occurred in the report of provisions of Conservation Order M-81 as amended February 18, which appeared in last week's INFORMATION LETTER. The item covering changes affecting bacon and condensed milk cans should have read as follows: Under the order as amended December 9, 1942, 15-ounce cans were required for condensed milk; the new provision changes this to a 14-ounce can. Another changed provision permits the packing of bacon in 24-ounce as well as 14-pound cans.

Wage Rate Committee Named

Last week's INFORMATION LETTER contained a special insert bulletin giving the personnel of the industry minimum wage rate committee appointed by the Wage and Hour Division of the Department of Labor. Appointment of this group, on which are represented the public, employees and employers, was made under provisions of the Fair Labor Standards Act, and the committee is to investigate conditions in the canned fruit and vegetable and related products industries as a basis for the recommendation of minimum wage rates. It will meet March 17 in New York City.

CANNERS' PROBLEMS ARE LAID BEFORE HOUSE COMMITTEE

(Continued from page 7531)

men of the fruit and vegetable industry committees, respectively, that were appointed last spring at the suggestion of the Secretary of Agriculture to work with the Department and the OPA on industry production and price problems in 1942, emphasized the fact that canners had not been really consulted by the OPA in formulating its 1943 program.

Dr. Galbraith, in his testimony, replied that canners had been consulted and said he would submit for the record a list of conferences held with industry members. He indicated that the list would include the Processors' Conference in Chicago in December, and the various State and regional meetings held the latter part of January and February of this year.

The canner representatives testified, however, that these meetings were not conferences in the sense that the subject was open, but that the meetings were ones in which the industry was told what would be the method of price control, etc., without being given the necessary details upon which to plan production. Each time representatives of the industry attempted to protest regional specific dollars and cents price methods coupled with mandatory grade labeling, OPA spokesmen said the subject was closed and that such a plan would be in effect in 1943.

When questioned by Agriculture Committee members concerning those in OPA who established the policy for 1943, Dr. Galbraith said that the plans were worked out with the general concurrence and approval of his staff. In making this statement, however, Dr. Galbraith said that he would not commit any one member to every detail of the program.

In support of OPA's 1943 program Dr. Galbraith placed much emphasis on what he termed the industry's favorable earnings position in 1942. He attributed the delay in announcing maximum prices for 1943 to the Department of Agriculture. The important price to the canner, he said, was the support price of the Commodity Credit Corporation, and he stated that canners should have those prices in order to proceed with production plans.

What the canners are appealing for is a cost-plus pricing system, Dr. Galbraith stated. There are two methods of controlling prices, he said, one where a specific price is tied up to a grade on a regional basis and the other where the producer figures his own price. This second method was used in 1942 on canned foods, as an emergency measure, Dr. Galbraith testified, and as a permanent measure it could not be expected to control prices. Using potatoes as an example, Dr. Galbraith presented the manner of applying specific regional dollars and cents control, and stated that farmers have accepted that method as one in which all producers within a given region receive equal treatment.

Industry representatives immediately pointed out to the Committee that the formula method used in 1942 was not a cost-plus system of price control, as implied by Dr. Galbraith. It was made clear to the Committee that in the case of fruits and vegetables, only the increase in the cost of raw products over the cost in 1941 was permitted and that definite percentages for all other costs were allowed.

Following a discussion of grade labeling as a hindrance to production, in which Dr. Galbraith confused buying and selling by grade with compulsory label declaration of government grades, F. A. Stare of Columbus, Wis., and H. T. Austern, counsel for National Canners Association, pointed out to the Committee the fears of the industry that lack of sufficient competent government graders would clog canners' warehouses, slow up production lines, and result in seizures by the Food and Drug Administration, conflicts between government graders, and waste of food through sampling.

J. B. Hutson, President of the Commodity Credit Corporation and also Associate Director of the Food Production Administration, in reviewing the Department of Agriculture's steps toward a 1943 production plan for canned foods, stated that the delay was caused by two things—"a controversy on grade labeling" and the industry's failure to understand that it could come to an agreement.

In connection with the second point, Mr. Hutson said that canners should have come to him, whereupon the industry's representatives stated that in its conferences with Department of Agriculture officials they had not been advised that Mr. Hutson was the one to be consulted. They agreed, however, to his suggestion for a meeting on Thursday. Mr. Hutson gave assurances that funds are available to carry out such a plan as may be approved by the Corporation.

Statement by E. N. Richmond

The statement made by Mr. Richmond, at the opening of the hearings on Tuesday, follows:

The fruit and vegetable canning industry of the United States consists of approximately three thousand individuals and firms engaged in the processing of these perishable agricultural products. The importance of this industry to the food needs of the Army, Navy, Lend-lease and to the civilian population can best be indicated by the following pack figures for the years of 1940, 1941, and 1942. These figures include only the seasonal vegetables and fruits and juices, and in no wise deal with the non-seasonal products.

	1940	1941	1942
Seasonal vegetables and juices	143,000,000	182,000,000	216,000,000
Fruits ...	47,000,000	60,000,000	60,000,000
Fruit juices	28,000,000	25,000,000	27,000,000
Totals—(ex. 24 cans ea.)	218,000,000	267,000,000	303,000,000

From the foregoing figures it may be seen that the 1941 output of seasonal vegetables and juices was 27 per cent greater than that in 1940, while the 1942 production was 51 per cent larger than in 1940.

A study of these figures will reveal that the canning industry has been appreciative of the need for maximum production and has increased the pack each year during the past two seasons. This increase has not been brought about through new factories or increased factory capacity, but rather by the application of maximum efficiency to each plant within the industry and, in many instances, continuous shift operations.

The great bulk of the vegetables grown for commercial canning are annual crops, that is, they must be planted each year. The opportunity to increase the nation's food supply of these annual crops is much greater than it is in the case of the perennial, or tree, crops which must be planted years in advance of the harvest.

The problem of the canning industry at the present moment, in relation to production for 1943, is that of all vegetables, and the fact that immediate action must be secured to encourage the contracting of vegetable acreage for the present season's production. The needs of our armed forces and of our allies have taken increasing quantities of these canned foods. The increase in the production of these canned vegetables by the industry has, however, to date about kept pace with the increase in the demand for the armed forces. For 1943, however, the demand for the armed forces and for Lend-lease will be very much greater than for 1942; but the prospects for increasing the 1943 pack over that of 1942 appear, at the moment, to be very discouraging. As a matter of fact, the industry, from the outlook as of today, cannot plant, harvest, and pack as much of these seasonal crops as were packed in 1942. This may be illustrated by a more detailed statement regarding the three principal canned vegetables—peas, corn and tomatoes.

The acreage of these three vegetables for canning in 1942 was 1,496,650 acres. The yields of this acreage were unusually large during 1942. If during 1943 the same quantity could be produced, the acreage planted would, of necessity, be much larger than last year because the yields this year cannot be expected to be more than normal.

If it is to be assumed that 1943 yields will be equal to the average of the last 10 years, last year's acreage will need to be increased 24 per cent, making a total of 1,800,000 acres to be planted to these three vegetables. There is no time to be wasted as the first of these peas must be planted now. In Washington and Oregon, planting of peas should start about the 15th of March. In Wisconsin and New York planting usually starts about the 20th of March. In the earlier States, however, peas should be going into the ground today and in Maryland and Ohio about the 10th of March. Tomato seed beds should have been planted during the month of February and the forepart of March, to enable the development of tomato plants for later replanting in the fields.

Manpower appears at this time an almost insurmountable production problem. However, the most pressing problem of the moment is that we are without a completed plan from OPA and the Department of Agriculture, and the crop planting season is now here.

Last October we were promised that OPA and Agriculture would have a completed plan to be offered to the canning industry by December 15, at which time, at the request of various interested government agencies, a conference of food processors was called to meet in Chicago. No completed plan was submitted. OPA did submit at the Chicago conference a portion of the plan, which included grade labeling and regional flat dollars and cents pricing by variety, grade and can size, stating that it was their intention to make such price ceilings sufficiently attractive so as to encourage production.

There have been since last fall no consultations with the over-all canning industry in relation to the proposed program of OPA. There was, in December, a meeting called of the Canning Advisory Committee of WPB, at which time the committee was told of that portion of the plan, later submitted at Chicago, but no discussions were permitted.

At a later meeting of the same committee, held during the middle of January, the committee unanimously rejected the portion of the plan as submitted as being of a type which would discourage the maximum production for the season of 1943.

Canning Industry Hampered

The canning industry finds itself confused, hampered, and bewildered. Canners feel as though their rights of serving their country in production at this time are being destroyed through arbitrary, unsound, unworkable, and delayed plans of OPA, and further by the injection of the matter of subsidies as between the Office of Price Administration and the Department of Agriculture into the affairs of the canning industry.

We are advised that there is no unanimity of opinion as between the Department of Agriculture and the Office of Price Administration and the Commodity Credit Corporation as to how such subsidies, if applied, will be applied nor what the effect on the canning industry will be.

We hope these matters of confusion may be cleared up so that the canning industry may proceed at once on a sound and workable basis and be enabled to produce a maximum production in accordance with available manpower for the crop season of 1943. It appears to us as though, had there been a planned procedure designed to destroy production, that such a plan could not be more effective. We need action and we hope that the Agricultural Committee of the House of Representatives may assist in securing action and promoting production.

The canning industry knows its responsibility for production and does assume that responsibility. It cannot fulfill that responsibility satisfactorily to itself, to Army, Navy, Lend-lease and the civilian population, however, if it is going to have barriers placed in the way of sound functioning. Please bear in mind again that this industry consists of approximately three thousand individuals and firms, the major number of which oppose the present attitude of OPA.